

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 1325:

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 46-4-155 of the Official Code of Georgia Annotated, relating to regulation of unbundled services, peaking service, customer services, and interstate capacity assets with regard to the distribution, storage, and sale of gas, so as to provide for definitions; to provide for the requirements upon which the electing distribution company may file strategic infrastructure asset proposals with the Public Service Commission; to provide for the information that must be filed with any strategic infrastructure asset proposal; to provide for a public hearing on the proposal; to provide for a procedure for the Public Service Commission to approve or disapprove such a strategic infrastructure asset proposal; to provide that the Public Service Commission shall not in a subsequent proceeding disapprove any strategic infrastructure assets which were previously approved by the commission; to provide for cost recovery; to provide for legislative findings and declarations; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly finds and declares as follows:

- (1) The high and rising cost of natural gas has caused financial hardship on homeowners, small businesses, and low-income citizens of Georgia;
- (2) The rising demand for natural gas as a clean-burning fuel source coupled with a limited supply of natural gas will continue to boost heating and electricity costs;
- (3) Elba Island Liquefied Natural Gas Terminal on the Georgia coast is one of the nation's key receiving points for imported natural gas;
- (4) The provision of an increased diversity of natural gas supplies to Georgia will offset part of the need for supplies from the Gulf of Mexico and will help stabilize or lower the price for natural gas in Georgia, helping to create a favorable energy market for Georgia consumers;

(5) More natural gas capacity and supply is necessary to accommodate economic development and job creation in Georgia;

(6) A favorable energy market in Georgia will aid economic development, help attract new jobs, and help to secure existing jobs;

(7) More competition in delivering natural gas will put a downward pressure on prices which could lead to lower prices for Georgians; and

(8) In order to meet the energy demands of Georgians and the rest of this nation and to benefit the Georgia economy, there is a need to provide means of accessing and delivering natural gas within this state.

SECTION 2.

Code Section 46-4-155 of the Official Code of Georgia Annotated, relating to regulation of unbundled services, peaking service, customer services, and interstate capacity assets with regard to the distribution, storage, and sale of gas, is amended by adding a new subsection (f) to read as follows:

"(f)(1) As used in this subsection, the term:

(A) 'LNG' means liquefied natural gas.

(B) 'Strategic infrastructure asset' means intrastate assets providing access to the imported liquefied natural gas market through the Elba Island LNG Terminal facility on the Georgia coast for firm distribution service to retail customers.

(C) 'Strategic infrastructure asset cost' means costs that include, but are not limited to, feasibility studies, preliminary engineering, facility and system modeling, engineering design and procedure development, permits, utility service extensions, bidding, material and equipment attainment, site preparation, legal services, environmental compliance, utility locating, construction, labor, materials and equipment, project management services, testing, inspections, community outreach, public meetings, land rights attainment, erosion control, land surveys, safety and fire protection, site remediation, and security.

(2)(A) The electing distribution company may file a strategic infrastructure asset proposal with the commission when the construction of such additional assets will provide for at least two of the following:

(i) A lower total proposal cost compared to the cost of the best alternative proposal using only interstate capacity assets to meet its forecast system requirements;

(ii) Greater reliability of delivery of gas supply to and within its system for firm distribution service to retail customers;

(iii) A more economical gas supply for retail customers by providing access to a greater diversity of gas supply sources; or

1 (iv) The overall best interest of the natural gas consumers in the state.

2 (B) No strategic infrastructure asset proposal may be filed with or approved by the
3 commission unless the construction of such additional asset will provide for a net
4 financial savings to natural gas customers' gas bills in this state such that the overall
5 savings to the customer are greater than the cost recovery of the strategic infrastructure
6 asset.

7 (3) Any such strategic infrastructure asset proposal shall include such reasonable detail
8 regarding the proposed strategic infrastructure assets as the commission may require
9 including a description of the strategic infrastructure to be constructed, acquired, or
10 modified; an explanation of the need for such strategic infrastructure investment; the
11 projected cost of the infrastructure investment; and the projected schedule for completion.

12 (4) Not less than 30 days after the filing of a strategic infrastructure asset proposal by an
13 electing distribution company, the commission shall commence a public hearing on the
14 proposal. The electing distribution company's testimony shall be under oath and shall, with
15 any corrections thereto, constitute the electing distribution company's affirmative case.
16 At any hearing conducted pursuant to this paragraph, the burden of proof to show that the
17 strategic infrastructure asset proposal meets the requirements of paragraph (2) of this
18 subsection shall be upon the electing distribution company. For the commission to
19 approve any strategic infrastructure asset proposal, it must find that the requirements of
20 paragraph (2) of this subsection are met.

21 (5) Following such a hearing, the commission shall either approve or deny the strategic
22 infrastructure asset proposal and shall not modify the electing distribution company's
23 proposal related to such strategic infrastructure assets. Should the commission fail or
24 refuse to issue an order by the one hundred twentieth day after the electing distribution
25 company's filing which either approves or disapproves the strategic infrastructure asset
26 proposal filed by the electing distribution company, the strategic infrastructure asset
27 proposal filed by the electing distribution company shall thereupon be deemed approved
28 by operation of law.

29 (6) After the approval of a strategic infrastructure asset proposal, the commission shall
30 not in a subsequent proceeding disapprove the strategic infrastructure assets which were
31 previously approved, and the commission shall provide for cost recovery of such strategic
32 infrastructure assets separate and apart from the electing distribution company's base rates
33 as more fully described in paragraph (7) of this subsection.

34 (7) The electing distribution company shall file with the commission the estimated total
35 cost of any strategic infrastructure asset proposal with reasonable supporting information
36 for said estimate as may be required by the commission. Any order approving a strategic
37 infrastructure asset proposal shall include cost recovery for the electing distribution

1 company of the actual total cost of the strategic infrastructure assets pursuant to the
2 provisions set forth in this subsection absent a showing of fraud, concealment, failure to
3 disclose a material fact, imprudence, or criminal misconduct. The electing distribution
4 company shall be entitled to recover 100 percent of the actual total strategic infrastructure
5 asset costs not to exceed the estimated total cost filed with the commission by more than
6 15 percent. If the actual total cost exceeds the estimated total cost by an amount that does
7 not exceed 15 percent of the estimate filed with the commission, the electing distribution
8 company shall file a report with the commission detailing the reasons for exceeding the
9 estimate. In such cases, the commission may disallow such cost in excess of the filed
10 estimated total cost only upon a finding by the commission that such cost in excess of the
11 estimate was the result of fraud, concealment, failure to disclose a material fact,
12 imprudence, or criminal misconduct. In such cases, the burden of proof shall be on the
13 party challenging recovery of such costs by the electing distribution company. If such
14 actual total strategic infrastructure asset cost exceeds the estimated total cost filed with
15 the commission by more than 15 percent, then the electing distribution company shall be
16 entitled to recover the amount that exceeds the filed estimated total cost by more than 15
17 percent only if such costs are shown by the electing distribution company to have been
18 reasonable and prudent. The commission may require the electing distribution company
19 to periodically file reports with the commission detailing the actual total cost incurred for
20 approved strategic infrastructure assets; provided, however, said reports shall not be
21 required to be filed more frequently than every 60 days. The commission shall provide for
22 cost recovery by a monthly strategic infrastructure charge to the marketers that shall not
23 be placed in and that shall be maintained separate and apart from the base rates of the
24 electing distribution company. Each marketer may identify the strategic infrastructure
25 asset cost as a separate item on a customer's monthly bill. Should a marketer elect to
26 identify such charge, the line item shall specifically state the purpose of the charge and said
27 charge shall be collected as provided by law or previous orders of the commission.

28 (8) The cost of strategic infrastructure assets shall be recovered by the electing
29 distribution company upon the completion of the construction based on the net incremental
30 cost. The commission shall provide for a recovery mechanism that shall be in the form of
31 an incremental charge, separate and apart from the then existing rates of the electing
32 distribution company. The rate shall be determined by calculating the electing distribution
33 company's net investment (invested capital less accumulated depreciation and accumulated
34 deferred income taxes) multiplied by the pre-tax rate of return plus the incremental
35 operating and maintenance costs associated with the strategic infrastructure assets. The
36 return on investment and depreciation used in the computation of this charge shall be the
37 same as those determined by the commission in the last fully litigated rate case before the

1 commission by the electing distribution company. The cost as estimated of newly
2 proposed strategic infrastructure assets included in a strategic infrastructure asset proposal
3 shall not exceed 25 percent of the electing distribution company's rate base at the time of
4 the filing of the proposal."

5 **SECTION 3.**

6 This Act shall become effective upon its approval by the Governor or upon its becoming law
7 without such approval.

8 **SECTION 4.**

9 All laws and parts of laws in conflict with this Act are repealed.